

CRE.10609

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

**ANGELA GONZALEZ and DEBORAH  
JONES**

**v.**

**KENNETH E. HJERPE and C.R.  
ENGLAND, INC.**

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**CIVIL ACTION NO. 6:19-cv-00244  
JURY**

**DEFENDANTS KENNETH E. HJERPE AND C.R. ENGLAND, INC.'S  
NOTICE OF REMOVAL**

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, **KENNETH E. HJERPE and C.R. ENGLAND, INC.** Defendants in the above matter, and file this their Notice of Removal under 28 U.S.C. §§ 1441 and 1332(a).

**I.  
BACKGROUND**

1. Plaintiffs sued the Defendants in the 66th District Court, Hill County, Texas alleging serious injuries from an automobile collision.

2. Defendant **C.R. ENGLAND, INC.**, (hereinafter referred to as “Defendant CRE”) was served on or about March 7, 2019. This Defendant has filed this Notice of Removal within the time period required. 28 U.S.C. §1446(b).

3. Defendant **KENNETH E. HJERPE**, (hereinafter referred to as “Defendant Kenneth”) was served on or about March 28, 2019. This Defendant has filed this Notice of Removal within the time period required. 28 U.S.C. §1446(b).

4. Plaintiff ANGELA GONZALEZ is a resident of Texas and domiciled in Jim Wells County, Texas.

5. Plaintiff DEBORAH JONES is a resident of Texas and domiciled in Jim Wells County, Texas.

6. Defendant C.R. England, Inc. is a limited partnership organized under the laws of the State of Utah with its corporate office and principal place of business in Dallas, Texas.

7. Kenneth Hjerpe is a resident of Florida and domiciled in Pinellas County, Florida.

7. Plaintiff's Original Petition, filed contemporaneously herewith, indicates that Plaintiff intends to conduct discovery according to Discovery Level 2.

## **II. BASIS FOR REMOVAL**

8. Removal is proper under 28 U.S.C. § 1332(a) because Plaintiffs' suit is a civil action in which this Court has original jurisdiction over the parties, based upon diversity jurisdiction under 28 U.S.C. § 1332. This action is removable to this Court pursuant to the provisions of 28 U.S.C. § 1441(b) because Plaintiffs are citizens of the State of Texas; Defendant Kenneth E. Hjerpe is a citizen of the State of Florida, and Defendant C.R. England, Inc. is a Utah corporation with its principal place of business in Utah.

9. For diversity purposes, a person is considered a citizen of the state where that person is domiciled. Additionally, for diversity purposes, a corporation is a citizen of both the state in which it was incorporated and the state in which it has its principal place of business. 28 U.S.C. § 1332(c)(1). For Defendant C.R. England, Inc., this test implicates the State of Utah.

10. Because the Plaintiffs and the Defendants Kenneth E. Hjerpe and C.R. England, Inc. to this suit do not share citizenship in any state, removal is proper on diversity grounds.

11. The Defendants are now, and were at the time the removed action was commenced, diverse in citizenship from the Plaintiffs. 28 U.S.C. § 1332. Accordingly, because the notice of removal was filed within thirty days after the receipt of a copy of the initial pleading setting forth

the claim for relief this removal is proper and timely under 28 U.S.C. §1446(b).

12. The amount in controversy in this action exceeds, exclusive of interest and costs, the sum of One Million and No/100 Dollars (\$1,000,000.00). *See* Plaintiffs' Original Petition, Paragraph VII.19.

13. The United States District Court for the Western District of Texas, Waco Division, embraces Hill County, Texas, the place where the state court action was filed and is pending. This statement is not meant as a waiver of any argument that venue is improper in the location in which the state court action was filed, but merely demonstrates the propriety of removing the action to this federal judicial district.

14. All pleadings, process, orders, served upon Defendants in the state court action are attached to this Notice as Exhibit "A" as required by 28 U.S.C. § 1446(a). No other motions are pending before the state court.

15. Defendants will promptly file a copy of this Notice with the clerk of the state court in which the action is pending.

### **III.** **REQUEST FOR JURY TRIAL**

16. Defendants hereby demand a trial by jury in accordance with the provisions of FED. R. CIV. P. 38.

WHEREFORE, PREMISES CONSIDERED, Defendants Kenneth E. Hjerpe and C.R. England, Inc., respectfully requests that this action be immediately and entirely removed upon filing of this Notice of Removal to the United States District Court for the Western District of Texas, Waco Division, and for such other and further relief to which they may show themselves to be justly entitled in equity or law.

Respectfully submitted,

*/s/ Michael P. Sharp*

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**ATTORNEYS FOR DEFENDANTS**

**KENNETH E. HJERPE and**

**C.R. ENGLAND, INC.**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 5<sup>th</sup> day of April 2019, I electronically filed the foregoing document with the Clerk of the Court for the U.S. District Court, Western District – Waco Division, using the electronic case filing system of the Court. Based on the electronic records currently on file, the Clerk of the Court will transmit a Notice of Electronic Filing to the following ECF registrants:

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*/s/ Michael P. Sharp*

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**MICHAEL P. SHARP**